

Remarks

Claims 1 – 34 are withdrawn as drawn to a non-elected invention. Claim 43 has been cancelled. Claims 35 – 42 and 44 – 55 are pending in the present application. Claims 35 – 42 and 44 – 55 stand rejected. Applicant has not presently amended the claims. Each of the rejections levied in the Office Action is addressed individually below.

Rejection under 35 U.S.C. § 102(e)

Claims 35 – 42, 44 – 51 and 55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,326,020 to Kohane (“Kohane”).

The Examiner maintains that Kohane teaches the claimed invention of claims 35 – 42, 44 – 51 and 55 after. In order to remove Kohane from consideration by the Examiner, Applicant has submitted a Declaration under 37 C.F.R. § 1.132 signed by Dr. Robert S. Langer establishing that the claimed invention was not invented by another. Applicant requests that the rejection be removed since the material disclosed in Kohane was not invented by another, and therefore, Kohane is not prior art under § 102(e) with respect to the present application.

Rejections 35 U.S.C. § 103(a)

Claims 35 – 42 stand rejected under 35 U.S.C. § 103(a) as obvious in view of Kohane and U.S. Publication Number 2002/0010194 to Levin (“Levin”). Claims 35 – 42 also stand rejected under 35 U.S.C. 103(a) as obvious in light of Kohane and U.S. Publication Number 2001/0002404 to Webb (“Webb”). Claims 52 – 54 also stand rejected under 35 U.S.C. 103(a) as obvious in light of Kohane and U.S. Patent No. 6,352,683 to ten Cate (“ten Cate”). Kohane has been removed from consideration by the Examiner, as set forth above. Therefore, Kohane cannot be used as part of the basis of an obviousness rejection. The remaining references, alone without Kohane, do not render the present application obvious. Applicant respectfully requests that the rejection be removed.

Applicant thanks the Examiner for her time and consideration. If a telephone conversation would help clarify any issues or help expedite the prosecution of the case, Applicant invites the Examiner to contact the undersigned at 617-248-5222. Please charge any fees associated with this filing, or apply any credits, to our Deposit Account No. 03-1721.

Respectfully submitted,

/JeffreyEBuchholz/

Jeffrey E. Buchholz
Registration Number 60,544

Date: October 3, 2008
Patent Department
Choate, Hall & Stewart LLP
Two International Place
Boston, MA 02110
t: (617) 248-5000
f: (617) 502-5002
patentdocket@choate.com